

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Proc. No. 08-01789 (SMB)
SIPA LIQUIDATION
(Substantively Consolidated)

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PERTAINS TO THE FOLLOWING CASE:

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

-v-

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,
ASCOT FUND LTD., GABRIEL CAPITAL
CORPORATION,

Defendants.
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Adv. Proc. No. 09-1182 (SMB)

**DECLARATION OF MARIEL R. BRONEN IN SUPPORT OF MOTION
TO REARGUE THE COURT'S JANUARY 22, 2018 ORDER EXCLUDING THE
OPINIONS AND TESTIMONY OF JEFFREY M. WEINGARTEN**

I, Mariel R. Bronen, declare as follows:

1. I am an associate at the law firm of Dechert LLP, counsel to Defendants J. Ezra Merkin and Gabriel Capital Corporation.
2. I make this Declaration to put before the Court certain documents related to Defendants' Motion to Reargue the Court's January 22, 2018 Order, implementing its December 22, 2017 Memorandum Decision, granting the motion *in limine* of Plaintiff Irving H. Picard (the "Trustee"), as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS"), to exclude the opinions and testimony of Jeffrey M. Weingarten.

3. Attached to this Declaration as Exhibit A is a copy of the Expert Report of Jeffrey M. Weingarten dated April 20, 2015.

4. Attached to this Declaration as Exhibit B is a copy of an excerpt from the deposition transcript of Steve Pomerantz dated July 8, 2015.

5. Attached to this Declaration as Exhibit C is a copy of a document Comparing Promeo Manager Series B and the S&P 500.

6. Attached to this Declaration as Exhibit D is a copy of Michael Ocrant's article "Madoff tops charts; skeptics ask how" published in *Mar/Hedge* in May 2001.

7. Attached to this Declaration as Exhibit E is email correspondence from Jerry Balsam to J. Ezra Merkin, dated May 6, 2001, including a copy of Erin E. Arvedlund, *Don't Ask Don't Tell*, Barron's, May 7, 2001.

Dated: New York, New York
February 5, 2018


Mariel R. Bronen